
**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

:

V.

:

CR. NO. 3:22-CR-366

:

ROBERT VARGO

:

:

SENTENCING MEMORANDUM

On January 13, 2023, the Defendant, Robert Vargo, pled guilty to count 2 of the Indictment, Interstate Communications With Threat to Injure in violation of Title 18 U.S.C §875(c). As part of the plea agreement, the Defendant would receive a two-level reduction, in accordance with USSG §3E1.1(a), if the Defendant adequately demonstrates responsibility for his actions. After the Defendant's plea, the Court directed that a Pre-Sentence Report ("PSR") be completed. The PSR was completed on or about February 16, 2023 and disclosed to both parties.

The PSR sets for a base offense level of 12. The Defendant is to receive a two-level increase because the victim of the threat was a government officer or employee in accordance with USSG §3A1.2(b). However, the Defendant is entitled to a two-level decrease pursuant to USSG §3E1.1(a) as the Defendant accepted responsibility which renders his total offense level to be calculated as 12.

Additionally, the PSR illustrates that Defendant's total criminal history points equals 20, resulting in a Criminal History Category of VI. As such, Defendant's applicable guideline sentencing range is 30 to 37 months.

VARIANCE PURSUANT TO 18 U.S.C. § 3553(a)

Robert Vargo requests that the Court grant a downward variance that it deems appropriate based upon the factors to be considered in imposing a sentence as set forth in 18 U.S.C. § 3553(a)(1). Pursuant to that section, the Court shall consider the nature and circumstances of the offense and the health concerns of the defendant. Specifically, the Court typically considers a defendant's criminal history, the characteristics of the defendant, health concerns of the defendant, the defendant's family circumstances and the nature of the offense.

DEFENDANT'S CRIMINAL HISTORY/CHARACTERISTICS OF THE
DEFENDANT

As noted in the PSR, Robert Vargo's prior adult criminal history is rather extensive placing him in a category VI. However, when considering the Defendant's prior criminal record, it is necessary to consider the same in conjunction with the characteristics of Robert Vargo.

Specifically worth noting, was Robert's upbringing and background as a child. Robert began getting into trouble at school as early as 10 years old. When he turned 13, he was arrested and charged with Possession of a Controlled Substance, Distribution of marijuana and Receiving Stolen Property and was placed in a juvenile center. At age 14, Robert was charged with Possession of a Firearm by a Minor. At age 15, Robert was charged with Use or Possession of Drug Paraphernalia and by age 16 and 17, he was charged with two counts of Burglary and certified as an adult. Robert spent much of his youth being placed in a juvenile corrections facility and an adult corrections facility. Once Robert finally became an adult, he continued down a path of criminality and continued incarceration.

DEFENDANT'S FAMILY CIRCUMSTANCES

It should be considered that much of Robert's early criminality stems from his upbringing. Robert's parents were both relatively young when he was born. He has no contact

with his mother due to her numerous incarcerations and his father was rarely around. Robert's grandmother and grandfather were tasked with raising him. His grandparents, while working full-time, certainly did her best raising him; however, they were also tasked with raising his two of Robert's sisters and several cousins, all under one household. The time and attention needed to help raise Robert was unavailable; despite his grandparent's best efforts.

With respect to Robert's drug abuse, he began experimenting with benzodiazepines as early as age 12. By age 19, he began using methamphetamine and heroin daily. He continued to struggle with controlled substances and refused treatment up until he was reincarcerated. When I asked why he had previously refused treatment, he indicates that his grandfather had just passed away and he was in a "bad place" but he regrets not attending.

HEALTH CONCERNS OF THE DEFENDANT

With respect to Robert's mental health history, he has been evaluated numerous times and has been diagnosed with a variety of ailments. His mental health diagnosis includes depression, anxiety (as early as age 13), anti-social personality disorder, intermittent explosive disorder and adjustment disorder. One of his most recent mental health evaluations revealed him to carry a stability rating of "C" which reveals he suffers from mental illness and requires further mental health services.

Moreover, much of Robert's life has been spent in some form of incarceration. One of his most recent stays at SCI Forest he was placed in the Security Threat Group Management Unit ("STGMU"). For twenty-nine (29) months, Robert was subjected to being in lockdown and in complete isolation. He did not have a cellmate, was required to eat by himself, was not offered programs, he was required to wear cuffs while showering, he was never afforded any time outside, he was never provided a book nor offered an opportunity to exercise. Robert submits

that he was never informed as to why he was subjected to 29 months of isolation. Robert certainly has fears and holds reservations returning to prison based on his prior experiences.

NATURE OF THE OFFENSE

In considering the nature of the offense, Robert indicates that he wrote the letter out of anger and never believed that the letter would go this far. He never truly meant to harm anyone. Once explained the impact of the letter had upon the person who opened it, he recognized how this threat became very real and understood the harm he did cause. He is apologetic and deeply regrets his actions.

Respectfully Submitted:

/s/CJ Rotteveel, Esquire
Attorney for Defendant

410 Jefferson Avenue
Scranton, PA 18519
(570) 961-1414

DATE: April 21, 2023

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Defendant's Sentencing Memorandum was served upon the following via ECF.

Jenny Roberts
Assistant U.S. Attorney

/s/CJ Rotteveel, Esquire
Attorney for Defendant

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DATE: April 21, 2023